

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

RONALD BLACK

Plaintiff,

v.

Case No. 2021-cv-0061
Removed from Circuit Court of
Fayette County, Tennessee
Twenty-Fifth Judicial District

NORFOLK SOUTHERN RAILWAY
COMPANY, HARRY POOLE, CHARLES
VANDERORD, and THE ESTATE OF
BEAUPATRICK THOMAS

Defendant.

**DEFENDANT NORFOLK SOUTHERN RAILWAY COMPANY'S
NOTICE OF REMOVAL**

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

PLEASE TAKE NOTICE that Defendant Norfolk Southern Railway Company ("Norfolk Southern") hereby removes this action to federal court pursuant to 28 U.S.C. §§ 1441 & § 1446 with full reservation of any and all defenses and objections. In support of this notice, Norfolk Southern submits as follows:

PROCEDURAL MATTERS

1. The Complaint in the above action was filed in the Circuit Court for Fayette County, Tennessee for the Twenty-Fifth Judicial District at Somerville on November 2, 2021, styled *Ronald Black vs. Norfolk Southern Railway Company, Harry Poole, Charles Vanderford, and the*

Estate of Beau Patrick Thomas, Case No. 2021-cv-61. *See* Complaint, attached hereto as **Exhibit A**.

2. This Complaint names as defendants Norfolk Southern, two employees of Norfolk Southern, and the estate of a former employee of Norfolk Southern.

3. This Notice of Removal is timely pursuant to 28 U.S.C. § 1446(b) because, to the best of the belief of Norfolk Southern, no defendant has been served with process so as to trigger the time limitations of 28 U.S.C. § 1446(b).

4. To the best of the information and knowledge of Norfolk Southern, upon inquiry with the Circuit Court of Fayette County, Tennessee, Plaintiff's Complaint is the only document that has been filed in this matter in the Circuit Court of Fayette County, Tennessee. *See Ex. A*.

5. Venue is properly placed in the United States District Court for the Western District of Tennessee because it is the district court for the district within which the state action is pending (the Circuit Court for Fayette County, Tennessee), in accordance with 28 U.S.C. § 1446(a).

DIVERSITY JURISDICTION

6. Plaintiff Ronald Black's ("Plaintiff") Complaint states a cause of action of which this Court has jurisdiction under 28 U.S.C. § 1332 because there is diversity of citizenship among the parties and the amount in controversy exceeds \$75,000, exclusive of interest and costs.

7. Plaintiff alleges in his Complaint that he is a citizen of Shelby County, Tennessee. *See Ex. A*. ¶ I.

8. Defendant Norfolk Southern, for purposes of diversity jurisdiction, is incorporated in Virginia and has its principal place of business in Georgia. *See* Business Registration, attached hereto as **Exhibit B**.

9. To the best of Norfolk Southern's information and belief, the other named co-defendants have not been served with process. Thus, removal of this case on the basis of diversity citizenship is not precluded by 28 U.S.C. § 1441(b). *Linder v. Medtronic, Inc.*, No. 13-2346, STA-cgc, 2013 WL 5486770 at *4-5 (W.D. Tenn. Sept. 27, 2013).

10. In Plaintiff's Complaint, he seeks "compensatory damages in the amount of NINE HUNDRED FIFTY THOUSAND and 00/100 (\$950,000.00) DOLLARS". See Ex. A, p. 3. Thus, by the plain terms of his Complaint, the jurisdictional threshold under 28 U.S.C. § 1332(a) is satisfied.

11. Undersigned counsel certifies, in accordance with 28 U.S.C. § 1446(d), that concurrent with the filing and service of this Notice of Removal, Defendant's "Notice of Filing Notice of Removal" has been served upon counsel for Plaintiff, Larry "Jimmy" Peters, Esq., and Allen Gressett, Esq., 88 Union Ave., 11th Floor, Memphis, Tennessee 38103.

12. Undersigned counsel further certifies, in accordance with 28 U.S.C. § 1446(d), that concurrent with the filing and service of this Notice of Removal, a copy of same, along with Defendant's "Notice of Filing Notice of Removal" is being filed with the Clerk of the Circuit Court for Fayette County, Tennessee. See **Exhibit C**.

WHEREFORE, removing Defendant hereby respectfully gives notice that the above action, now pending against it in the Circuit Court of Shelby County, Tennessee, is removed to the United States District Court for the Western District of Tennessee.

Dated: November 9, 2021.

Respectfully submitted,

NORFOLK SOUTHERN RAILWAY CO.

s/Aubrey B. Gulledge
S. Camille Reifers – TN BPR # 19856
Aubrey B. Gulledge - TN BPR # 36396

BOYLE BRASHER LLC

80 Monroe Avenue, Suite 410

Memphis, TN 38103

Telephone: (901) 521-2860

Facsimile: (901) 521-2861

creifers@boylebrasher.com

agulledge@boylebrasher.com

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing document has been served upon the following by placing a copy of the same in the U.S. Mail, first class, postage prepaid, by electronic mail, and/or via the Court's Electronic Filing System, on this the 9th day of November, 2021:

Larry Peters, Esq. (#37889)
Allen Gressett, Esq. (#29187)
Schwed, Adams & McGinley, P.A.
88 Union Ave., 11th Floor
Memphis, Tennessee 38103
T: (901) 313-3411

s/Aubrey B. Gulledge_____
Aubrey B. Gulledge